

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:06CV66-W**

THE ATTIC TENT, INC.,

Plaintiff,

vs.

**JERRY L. COPELAND and PROGRESSIVE
ENERGY SOLUTIONS, INC.,**

Defendants.

ORDER

THIS MATTER is before the Court on the “Defendant’s Motion to Withdrawal [sic] Their First Motion to Compel Discovery Without Prejudice” (document #110) filed January 27, 2007, which the Court is treating as a Notice Withdrawing Motion pending the Plaintiff’s compliance with the Court’s January 19, 2007 “Memorandum and Order” at 15 (document #109) (“On or before February 20, 2007, the Plaintiff shall produce any and all documents or other information that is responsive to any of the Defendants’ discovery requests, including any documents or information which the Plaintiff earlier withheld on grounds of the Defendants’ or their counsel’s alleged failure to comply with the Stipulated Protective Order”).

Accordingly, the Defendant’s present Motion shall be granted, and the Defendant’s “First Motion to Compel Discovery” (document #107) shall be withdrawn without prejudice to the Defendant’s right to renew that Motion should the Plaintiff fail to comply with the Court’s earlier Order.

NOW, THEREFORE, IT IS ORDERED:

1. The “Defendant’s Motion to Withdrawal [sic] Their First Motion to Compel Discovery Without Prejudice” (document #110) is **GRANTED**, and the Clerk is directed to terminate the

Defendant's "First Motion to Compel Discovery" (document #107).

2. The Clerk is directed to send copies of this Order to counsel for the parties; and to the Honorable Frank D. Whitney.

SO ORDERED.

Signed: January 29, 2007

Carl Horn, III

Carl Horn, III
United States Magistrate Judge

